

COMDTINST 16475.3B

OCT - 3 2001

COMMANDANT INSTRUCTION 16475.3B

Subj : Floodplain Management and Protection

Ref: (a) Executive Order 11988, Floodplain Management, dated 24 May 1977

1. PURPOSE. This Instruction establishes policy and prescribes procedures for Coast Guard implementation of reference (a) and Enclosure (1).
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands (MLCs), commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel, and special staff offices at Headquarters shall ensure that the provisions of this Instruction are followed in the consideration of environmental effects of Coast Guard actions. All program guidance in implementing this Instruction shall be submitted by program managers to Commandant (G-SEC) for review and concurrence to ensure consistency with this Instruction prior to issuance.
3. DIRECTIVES AFFECTED. Floodplain Management and Protection, COMDTINST 16475.3A is cancelled.

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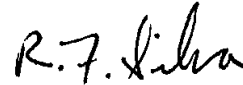
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4. DISCUSSION.

- a. Enclosure (1), Department of Transportation Order 5650.2, dated 23 April 1979, Floodplain Management and Protection establishes policy and procedures to assure that floodplains are protected, preserved and enhanced to the fullest extent possible in accordance with reference (a).
- b. The Coast Guard has opted to apply Enclosure (1) without substantive change.



A. F. SILVA
ASSISTANT COMMANDANT FOR SYSTEMS
"CHIEF ENGINEER"

Encl: (1) Department of Transportation Order 5650.2, Floodplain Management

Department of Transportation

Office of the Secretary

Washington, D.C.

ORDER

DOT 5650.2

4-23-79

SUBJECT: FLOODPLAIN MANAGEMENT AND PROTECTION

1. **PURPOSE.** This Order prescribes policies and procedures for **ensuring that proper** consideration is given to the avoidance and mitigation of adverse floodplain impacts: in agency actions, **planning programs, and** budget requests.
2. **AUTHORITY.** This Order is issued pursuant to the following statutes and executive order:
 - a. The National Environmental Policy Act of 1969 (NEPA) (P.L. 91-190) **establishes a** national policy to, among other things, "...**promote** efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man...." NEPA requires **preparation of an environmental** impact statement (EIS) for any major Federal action significantly affecting the quality of the human environment. DOT 5610.1B, Procedures for Considering Environmental Impacts, of 9-30-74, Attachment 2, paragraph 11, **requires** that information on flood hazards, if relevant, be included in the EIS.
 - b. The National Flood Insurance Act of 1968, Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448, 8-1-68), provides previously **unavailable** flood insurance protection to property **owners** in flood-prone areas. Section 1302(c) of the Act stipulates that "the objectives of a flood insurance program should be integrally related to a unified national program for flood plain management...."
 - c. Executive Order 11988 - Floodplain Management, promulgated on 5-24-77, links the need to protect lives and property with the need to restore and preserve natural and beneficial floodplain values. Federal agencies are directed to avoid conducting, allowing, or supporting

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Environment

ENCLOSURE(1)

actions on the base floodplain unless the agency finds that the base floodplain is the only practicable **alternative** location, and to issue procedures for implementing the requirements of the Executive Order.

- d. The Flood Disaster Protection Act of 1973 (P.L. 93-234, 87 Stat. 975) **requires** the purchase of flood insurance as a condition of receiving any **form** of federal or federally-related financial assistance **for** acquisition or construction **purposes with respect** to insurable buildings and mobile homes within an identified special flood, mudslide, or flood-related erosion hazard area.

- 3. **POLICY.** It is the policy of the Department of Transportation (DOT) (1) to encourage a broad and unified effort to prevent uneconomic, hazardous, **or** incompatible use and development of the Nation's floodplains, (2) to avoid, where practicable, encroachments by Departmental actions, (3) to minimize the adverse impacts which such actions may have on base floodplains, including direct or indirect support **for** development, and (4) to restore and preserve **natural** and beneficial floodplain values that are adversely **affected by** such actions.

4. DEFINITIONS.

- a. Action - the **construction** or reconstruction of a federal or federally-financed, licensed, or approved transportation improvement (including any relocation housing built or moved to a new **site**) ; and **acquisition**, management, **or** disposition **of** Departmental lands and facilities.
- b. Base Flood - that flood having a one percent chance of being **exceeded** in any given year (commonly known as a **100-year flood**).
- c. Base Floodplain - the area which would be inundated by a **base** flood.
- d. **Encroachment** - an action within the limits **of** the base floodplain.

- e. Environmental Impact Statement - the detailed statement mandated by **section 102(2) (C)** of the National Environmental **Policy Act of 1969** (ref: DOT 5610.18).
- f. Facility - any element of the built environment other than a walled or roofed building.
- f. Flood or Flooding - a general and temporary condition of partial or **complete inundation** of normally dry land areas from the **overflow of inland and/or tidal waters**, and/or the unusual and rapid accumulation or runoff of surface waters from any source.
- g. Flood of Record, - the **largest historical flood** event which **has** been reliably determined and recorded.
- h. Floodplain - the **lowland** areas adjoining **inland** and coastal waters which are-periodically inundated by flood waters, including flood-prone areas of offshore islands.
- i. Floodproofing - the incorporation of **design** features in, or modifications **to, individual** structures and facilities, their sites **and their contents** to protect against structural failure, to-keep: **water out**, or to reduce effects of water **entry, so** that -threats to human- life and property **are** reduced.
- j. Minimize - to **reduce to the smallest practicable** amount or degree.
- k. Natural and **Beneficial Floodplain** Values - **include** but are not limited to: natural moderation of floods, water quality maintenance, groundwater **recharge, fish, wildlife, plants, open space, natural beauty, scientific** study, outdoor recreation, agriculture, aquaculture, and forestry.
- l. Negative Declaration - a determination by the responsible official that a particular action does not significantly affect the quality of the human environment.
- m. Practicable'- capable of **being done within** natural, social, and economic constraints.

- n. Restore - to establish a setting **or environment in** which the naturel **and** beneficial values impacted by the **trans-**portation agency action **can** again operate. In some **situations**, a tranrportation improvement **may represent** a positive enhancement or negligible use of natural and beneficial floodplain **values**.
- o. Risk - the adverse consequences-associated with the probability **of** flooding attributable to an encroachment, specifically including the potential for property **loss** and the **hakard** to life.
- p. Significant Encroachment - an encroachment **resulting** in **one or more** of the **following construction** or flood-related impacts:
 - (1) a considerable probability of loss of human **life**;
 - (2) likely future damage associated with the encroach-ment that could be substantial in **cost or extent**, including interruption of **service** on or loss of a vital **transportation** facility; and
 - (3) a **notable adverse** impact on "natural and beneficial **floodplain values**", as defined in item k, above.

It is not contemplated that detailed design **would be necessary** in order to determine whether there is a Significant encroachment.

- q. Support Base Floodplain Development - to encourage, allow, **serve**, or otherwise facilitate additional development in a base floodplain. Direct support **results** from an action on the base floodplain. Indirect **support** results from actions out of the base floodplain.

5. APPLICATION.

- a. Paragraph 3 of this Order applies to all actions affecting **base** floodplains. The other provisions apply, **except as** indicated in **subparagraphs** b and c below.

- b. The provisions of this **Order** do not apply to or alter decisions, approvals, or authorizations which were given by the Department or its **elements** pursuant to directives in effect before the date of this Order's publication in the Federal Register, **nor do** they apply to transportation projects where:

- (1) the final EIS is filed with the Environmental Protection Agency within **12 months** after the date of this Order's publication in the Federal Register; or any public **hearings have been** held and a negative declaration has been **approved**, within 120 days after that publication date; or
- (2) the only step being taken in the **floodplain** is the relocation of **persons into** existing housing units, except that potential occupants **shall be** advised at the appropriate stage **if** the relocation housing is located in a base floodplain-and be offered alternative **comparable** housing at-their option. ?

- c. DOT elements may develop **categories of** projects which **are not** subject to the requirements of this Order due to their negligible **potential, alone or** cumulatively, for resulting in **adverse impacts** associated with the occupancy or modification of floodplains, or the-direct or indirect.support of floodplain development.

6. FLOODPLAIN IDENTIFICATION. Base floodplain limits shall be determined and encroachments delineated for reasonable alternative actions through the **following** sources:

- a. Federal Insurance Administration (**FIA**) maps shall be used as the primary **reference** for establishing base floodplain limits (obtain maps **from** the U.S. Department of Housing and Urban Development **sources** listed in 43 FR 6050).

- (1) A Flood' Insurance Rate Map (FIRM) or Flood Insurance Study Report (**FIS**) shall be consulted first.

- (2) If a **FIRM** or FIS is not available, a Flood Hazard Boundary Map (**FHBM**) may be available from the same **sources**. These approximate maps shall be used to determine if the alternatives under **consideration** are clearly out of the floodplain. If one or more of the alternatives **appears** to be near or inside the indicated base floodplain boundary, **more** detailed information on the floodplain boundary shall be developed or obtained.
- b. If a FIRM, FIS, or floodplain delineation from other agency **sources** as listed in 43 FR **6049-51** is not available and current, **or** if the site is near or inside the **FHBM** boundaries, base floodplain limits shall be established by the best available method meeting acceptable professional engineering standards.
- c. The delineation of floodplain limits shall take proper account **of** previous alterations to the floodplain by flood retention **works or** other elements of the built environment.
7. **PUBLIC INVOLVEMENT.** Where any of the alternatives identified **for** accomplishing an **action** are proposed **in** the **base** floodplain, opportunity shall be provided for early public review and comment. **The** following steps shall be made a part of existing review procedures (including the EIS review process) **as** appropriate to the nature of the **encroachment**.
- a. Public hearing presentations shall include identification of **encroachments**.
- b. If one or **more** alternatives under consideration include significant encroachments, any public notices, public hearing notices, notices offering an opportunity for a hearing, **and** notices of availability for negative declarations shall make reference to **that** fact.
8. **ENVIRONMENTAL REVIEW PROCESS.** Whenever appropriate, the **pro-**cedures **established in DOT 5610.1B, Procedures for Considering Environmental Impacts, of 9-30-74,** shall be the vehicle through which implementation of **this** policy is documented.

- a. Draft environmental review documents (draft **EISs**^{1/} and any preliminary versions of negative declarations) shall cover the items below for all alternatives involving encroachments:
- (1) any risk to, or resulting from, the transportation action;
 - (2) the impacts on natural and beneficial floodplain values; and
 - (3) the degree to which the action provides direct or indirect support for development in the base floodplain.
- b. Draft environmental review documents shall also include sufficient discussion to permit an initial review of the adequacy of methods proposed to **minimize harm**, and, where practicable, to restore and preserve ~~ne~~ natural and beneficial floodplain values affected.^{2/} In most cases, **conceptual design** (as opposed to detailed engineering studies) should be sufficient to help establish the adequacy of mitigation measures. **Commitments** to later compliance with special flood-related design criteria or the imposition, **in** advance, of protective conditions may be warranted in some situations.
- c. Final environmental review documents (final **EISs** and **final** versions of negative declarations) reflecting a decision on **the** preferred alternative shall clearly identify the floodplain concerns and impacts associated with that alternative and cover the items listed in subparagraphs a and b above.

^{1/} DOT elements shall follow a rule of reason in determining how much floodplain information needs to be incorporated in draft **EISs** circulated during a six-month period after the date of the Order's publication in the Federal Register.

^{2/} Guidance and examples regarding **methods for** minimizing harm to floodplains and for restoring and preserving the natural and beneficial floodplain values affected can be found in 43 FR 6047-48.

9. ONLY PRACTICABLE ALTERNATIVE FINDING. Where it **is proposed** to conduct, support, or allow an action involving a **significant** encroachment, the final EIS or final version of the negative declaration shall **reflect consideration of** alternatives to avoid such encroachment, and to reduce **its** adverse base floodplain impacts.
- a. A preferred alternative involving a significant **encroachment shall** not be approved unless the responsible official can make a finding, in writing, that the proposed significant encroachment is the only practicable alternative, together **with:**
 - (1) A description of why the proposed action must be located in the floodplain, including the alternatives considered and why they were not practicable.
 - (2) A **statement** indicating that the action conforms to applicable State and/or local **floodplain protection** standards.
 - b. The finding shall be incorporated into, or attached to, the final environmental **review** document.
 - c. On *occasion*, a proposal **for** which an environmental review document is **unnecessary** may nevertheless have the **potential** for causing a significant encroachment. Under such circumstances, the above written finding shall still be **made and included** with the **project records**.
 - d. The above written finding, within or together with **any** final EIS prepared for the proposed action, shall be provided to State and **areawide** clearinghouse⁸ and other interested parties.
 - e. A determination that a given action outside of a floodplain is or is not practicable requires a careful balancing and application of individual judgment. While **such** balancing should include the full range of **environmental**, social, economic, and **engineering** considerations, special weight should be given to floodplain management concerns.
10. PROGRAM DIRECTIVES
- a. DOT elements which have programs potentially **affecting** **base** floodplains shall include **adequate** provision consistent with this Order **for** the evaluation and

consideration of flood hazards and **measures to** avoid or minimize floodplain impacts. As appropriate, modifications shall be made to regulations and operating procedures for licenses, permits, and loan or **grant-in-aid** programs to accomplish this purpose. These changes should be submitted to the Assistant Secretary for Policy and International **Affairs** for review within 120 days after the date of **this Order's publication** in the Federal Register.

- b. Each DOT element shall **have the option** Of applying this Order directly to its programs and **activities** within 120 days of its date of publication in **the** Federal Register or of issuing its own floodplain regulations or procedures, consistent with this Order. Such regulations or procedures shall be submitted within the same **120-day** period, to the Assistant Secretary for Policy and International **Affairs** for concurrence.
 - c. DOT elements may elect to develop project-related engineering design standards reflecting flood hazard and floodplain **considerations, for** their -individual programs.
11. BUDGET REQUESTS. Any requests for **new authorizations** or appropriations transmitted to the Office of Management and **Budget** shall indicate, if a **specific** proposal will involve significant encroachment upon a floodplain, that the proposed action is in accord with Executive Order 11988.
12. FEDERAL **REAL** PROPERTY AND FACILITIES. Departmental elements with responsibilities for Federal real property and **facili-**ties shall take the following measures, in addition to those specified in the other sections **of this Order.**
- a. The construction of walled or roofed buildings or other facilities shall be consistent with the intent of the standards and criteria promulgated under the National Flood Insurance **Program,** and shall deviate only to the **extent** that the standards of the Flood Insurance Program are demonstrably **inappropriate for** the **given case.**
 - b. If, after compliance with the requirements of this order, new or rehabilitated buildings are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied. To achieve flood

protection, DOT **elements** shall elevate the buildings **above the base flood level**, wherever practioabls, **rather** than filling in land.

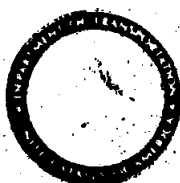
- c. If property used by the general public has suffered flood damage or is located in an **identified** flood haeard **area**, the responsible DOT element shall provide on buildings or **other places**, where appropriate, conspicuous delineation of the level of the base flood and flood **of record** (if larger), in **order** to enhance public awareness **of** flood hazards.
- d. When property in floodplains is proposed for lease, easement, right-of-way, or disposal to nonfederal parties, the **responsible** DOT element shall indicate if a flood hazard exists and (1) identify in the conveyance those uses that are restricted under Federal, State, or local floodplain regulations; and (2) attach other restrictions consistent **with this Order** to the **uses** of properties by the grantee or **purchaser** and any successors, except as prohibited by **law**; or (3) withhold such **properties** from conveyance.

13. RESPONSIBILITIES.

- a. The **Assistant** Secretary for Administration and Heads of Operating Administrations shall **assure** that the requirements of **this** Order are met and that appropriate steps are taken to implement it.
- b. The Assistant Secretary **for** Policy and International Affairs shall oversee the implementation of the policy **set** forth in paragraph 3, review and concur **in any** floodplain procedure⁸ of the operating administration, and **recommend** any modifications of procedure⁸ that may **be** appropriate. The Assistant Secretary **shall consult** periodically with the Council on Environmental Quality, the Water **Resources** Council, and **FIA** to evaluate the Department's⁸ implementation of these policies and shall **be responsible** for the preparation of any required reports **on** floodplain *management*, including **such moni-**
toring of the floodplain evaluation process as may be appropriate.

14. **UNIFIED NATIONAL PROGRAM FOR FLOODPLAIN MANAGEMENT.** This Order incorporates by reference "A Unified National Program for Flood Plain Management," a report to the Congress by the Water Resources Council, July 1976 (available from the U.S. Government Printing Office, Documents Department, Washington, D.C. 20402, Order Number GPO 052-045-00047, price \$1.951, and future revisions.
15. **FLOOD DISASTER PROTECTION ACT.** The Flood Disaster Protection Act contains certain provisions which can affect DOT programs. Basically, the Act mandates the purchase of flood insurance as a condition of receiving Federal assistance for the construction or repair of buildings located in areas having special flood hazards as identified by FIA. The requirement also applies when Federal assistance is being used to purchase equipment which will be housed in buildings which are located in such special flood hazard areas. Flood-prone communities may arrange for flood insurance through FIA's National Flood Insurance Program. DOT elements shall take steps to assure full compliance with this requirement (set forth in section 202(a) of the Act), where applicable.
16. **EMERGENCY PROVISIONS.** Nothing in this Order shall prevent the timely provision of assistance or funds for emergency repairs essential to save lives and to protect property and public health and safety. However, a reasonable effort to comply with the Order shall be made during and/or after the emergency period.

FOR THE SECRETARY OF TRANSPORTATION:



Alan Butchman
Deputy Secretary

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